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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 IN AND FOR THE COUNTY OF MARIN

RECEIVED

APR 20 1994

HUB LAW OFFICES

11 CHURCH OF SCIENTOLOGY)
12 INTERNATIONAL, a California)
not-for-profit religious)
13 corporation;)

No. 157 680

14 Plaintiffs,)

CORRECTED

15 vs.)

**SECOND AMENDED
VERIFIED CROSS-COMPLAINT
FOR ABUSE OF PROCESS**

16 GERALD ARMSTRONG; MICHAEL)
17 WALTON; et al,)

18 Defendants.)

19 _____)
20 GERALD ARMSTRONG,)

21 Cross-Complainant,)

22 -vs-)

23 CHURCH OF SCIENTOLOGY)
INTERNATIONAL, a California)
24 Corporation; DAVID MISCAVIGE;)
DOES 1 to 100;)

Date: April 15, 1994
Time:
Dept: One
Trail Date: 9/29/94

25 Cross-Defendant.)
26 _____)

27 Cross-Complainant GERALD ARMSTRONG alleges as follows:
28

COPY

PARTIES

1
2 1. Cross-Complainant GERALD ARMSTRONG, hereinafter,
3 "ARMSTRONG," is a resident of Marin County, California.

4 2. Cross-Defendant CHURCH OF SCIENTOLOGY
5 INTERNATIONAL, hereinafter "CSI" or is a corporation organized and
6 existing under the laws of the State of California, having
7 principal offices and places of business in California and doing
8 business within the State of California within the territorial
9 jurisdiction of this Court.

10 3. Cross-Defendant DAVID MISCAVIGE, hereinafter
11 "MISCAVIGE," is an individual domiciled in the State of
12 California.

13 4. At all times herein mentioned, each Cross-Defendant
14 was the agent, employee or coconspirator of each of the remaining
15 Cross-Defendants, and in doing the things herein mentioned, each
16 Cross-Defendant was acting within the course and scope of its
17 employment and authority as such agent and/or representative
18 and/or employee and/or coconspirator, and with the consent of the
19 remaining Cross-Defendants.

20 5. CSI is subject to a unity of control, and the its
21 corporate structure was created as an attempt to avoid payment of
22 taxes and civil judgments and to confuse courts and those seeking
23 redress for these Cross-Defendants' acts. Due to the unity of
24 personnel, commingling of assets, and commonality of business
25 objectives, these Cross-Defendants' attempts at separation of
26 these corporations should be disregarded.

27 6. The designation of CSI as a "church" or religious
28 entity is a sham contrived to exploit the protection of the First

1 Amendment of the United States Constitution and to justify their
2 criminal, and tortious acts against ARMSTRONG and others. Cross-
3 Defendant corporation is part of an international, money-making,
4 criminally motivated enterprise which subjugates and exploits its
5 employees and customers with coercive psychological techniques,
6 threat of violence and blackmail. CSI and other Scientology
7 corporate entities act as one organization.

8 7. David Miscavige controls and operates Scientology
9 and uses it to enforce his orders and carry out his attacks on
10 groups, agencies or individuals, including the acts against
11 ARMSTRONG alleged herein to the extent there is no separate
12 identity between Miscavige and CSI and any claim of such separate
13 identity should be disregarded.

14 8. Cross-Defendants DOES 1 through 100, inclusive, are
15 sued herein under such fictitious names for the reason that the
16 true names and capacities of said Cross-Defendants are unknown to
17 ARMSTRONG at this time; that when the true names and capacities of
18 said Cross-Defendants are ascertained ARMSTRONG will ask leave of
19 Court to amend this Cross-Complaint to insert the true names and
20 capacities of said fictitiously named Cross-Defendants, together
21 with any additional allegations that may be necessary in regard
22 thereto; that each of said fictitiously named Cross-Defendants
23 claim that ARMSTRONG has a legal obligation to Cross-Defendants by
24 virtue of the facts set forth below; that each of said
25 fictitiously named Cross-Defendants is in some manner legally
26 responsible for the acts and occurrences hereinafter alleged.

27 9. Armstrong was a Scientologist from 1969 until mid-
28 December, 1981. He was drawn into Scientology by representations

1 made by the organization and its founder L. Ron Hubbard
2 ("Hubbard") about his history, achievements, credentials,
3 character and intentions, and the history, credentials, character
4 and intentions of his organization.

5 10. Throughout his years in Scientology, Armstrong remained
6 dedicated to the accomplishment of its claimed and widely
7 publicized "aims":

8 "A civilization without insanity, without
9 criminals and without war, where the able can
10 prosper and honest beings can have rights, and
11 where man is free to rise to greater heights".

12 11. From 1971 Armstrong was a member of the Sea
13 Organization, Scientology's highest administrative echelon which
14 controlled all lower organizations internationally without regard
15 for corporate formality. Sea Organization members have an
16 unconditional reverence for the words of Hubbard, whether true or
17 false, and may not, on penalty of severe punishment, question the
18 truth or falsity of his words.

19 12. Armstrong held several Sea Organization staff positions
20 including legal officer, public relations officer and intelligence
21 officer. He worked personally for Hubbard as a communications
22 aide and in his household staff. Armstrong gained a knowledge of
23 organization structure, control, policies and orders. He gained a
24 knowledge of organization policies and practices regarding
25 "ethics," its system of discipline and punishment, including its
26 ultimate sanction, "fair game," whereby a person who was labelled
27 a "suppressive person" or "enemy":

28 "May be deprived of property or injured by any

1 means by any Scientologist without discipline
2 of the Scientologist. May be tricked, sued or
3 lied to or destroyed."

4 13. At the beginning of 1980 leaders at Sea Organization
5 headquarters at Gilman Hotsprings, California, in anticipation of
6 a raid by law enforcement agencies, ordered a massive shredding of
7 evidence showing Hubbard's control of the organization. In the
8 course of the shredding operation Armstrong discovered several
9 boxes containing Hubbard's personal documentary records.
10 Armstrong petitioned Hubbard to assemble these documents and to
11 search for more personal records to form an archive to be used to
12 create a Hubbard biography. Hubbard approved the petition.

13 14. During his assembly and study of Hubbard's records
14 Armstrong discovered that an alarming number of the organization's
15 and Hubbard's representations about Hubbard's history,
16 achievements, credentials, character and intentions were without
17 basis in fact and, indeed, false ("the misrepresentations").
18 Armstrong brought these discoveries to the attention of
19 organization executives responsible for publications in the hope
20 of bringing the misrepresentations that Scientology systematically
21 disseminated to Scientologists and the world at large into
22 conformity with the truth.

23 15. The response of the organization's leaders to
24 Armstrong's attempt to correct the misrepresentations being
25 disseminated was to label him a security risk and order him to a
26 "security check," an accusatory interrogation using Scientology's
27 electro-psychometer (E-meter) as a lie detector. Armstrong
28 concluded that Hubbard and his organization's leaders did not

1 sincerely seek to accomplish Scientology's stated "aims" but
2 sought unimpeded domination and the acquisition of wealth at the
3 expense of honesty and freedom, to the detriment of their
4 followers, and to the peril of their perceived opponents.
5 Armstrong came to the realization that Hubbard and his
6 organization were dishonest and violent, causing him to terminate
7 his affiliation with them.

8 16. Shortly after Armstrong left the organization it
9 published two "Suppressive Person Declares," naming him a
10 "suppressive person," accusing him of falsely of "crimes" and
11 "high crimes," and thus making him "fair game."

12 17. To protect himself following the publication of the
13 "suppressive persons declares," Armstrong obtained copies of
14 documents showing that Hubbard's and the organization's
15 representations concerning their history, achievements,
16 credentials, character and intentions were false.

17 18. On August 2, 1982 the Scientology organization sued
18 Armstrong for conversion of the subject documents in a case
19 captioned Church of Scientology of California and Mary Sue Hubbard
20 v. Gerald Armstrong, Los Angeles Superior Court case No. C 420153
21 ("Armstrong I"). Armstrong retained Boston, Massachusetts
22 attorney Michael Flynn ("Flynn") and the Woodland Hills,
23 California law firm of Contos & Bunch, to represent Armstrong
24 against the organization.

25 19. Armstrong filed a cross-complaint for fraud, breach of
26 contract and intentional infliction of emotional distress. The
27 cross-complaint was bifurcated from the underlying document case
28 which was tried by Judge Paul G. Breckenridge, Jr. in the spring

1 of 1984.

2 20. Following a 30-day trial, on June, 20, 1984 Judge
3 Breckenridge rendered a decision in favor of Armstrong which held
4 that Hubbard and his organization were antisocial in nature and
5 condemned its practices. He wrote:

6 "In addition to violating and abusing its own
7 members civil rights, the organization over
8 the years with its "Fair Game" doctrine has
9 harassed and abused those persons not in the
10 [organization] whom it perceives as enemies.
11 The organization clearly is schizophrenic and
12 paranoid, and this bizarre combination seems
13 to be a reflection of its founder LRH. The
14 evidence portrays a man who has been virtually
15 a pathological liar when it comes to his
16 history, background and achievements. The
17 writings and documents in evidence
18 additionally reflect his egoism, greed,
19 avarice, lust for power, and vindictiveness
20 and aggressiveness against persons perceived
21 by him to be disloyal or hostile."

22 21. From 1979 Flynn was responsible for much litigation
23 vindicating the rights of individuals injured by Scientology.

24 In a set of cases in Federal Court in Boston, Massachusetts
25 Flynn represented Lucy Garritano, Steven Garritano, Peter Graves,
26 Kim Vashel Hankins, Majorie Hansen, Janet Troy Labanara and
27 Michael Smith.

28 In a set of cases in Federal Court in Tampa, Florida, Flynn

1 represented former mayor of Clearwater, Gabriel Cazares, Nan and
2 John McLean, Tonja Burden and Margery Wakefield.

3 In cases pending in Los Angeles, California Flynn
4 represented, among others, former organization executives Laurel
5 Sullivan ("Sullivan"), William Franks ("Franks"), Howard Schomer
6 ("Schomer"), Edward Walters ("Walters") and Martin Samuels
7 ("Samuels"), all organization contemporaries of Armstrong.

8 22. From the time Flynn began representing individuals and
9 entities in litigations with Scientology the organization labelled
10 him an "enemy" and subjected him to a campaign of "fair game."
11 Acts against Flynn pursuant to the "fair game doctrine" included
12 more than a dozen lawsuits, frivolous bar complaints, theft of
13 records, infiltration of his office, illegal electronic
14 surveillance, defamation, framing with crimes, and attempted
15 assassination. Flynn also brought a lawsuit against Scientology,
16 captioned Michael J. Flynn v. Scientology, United States District
17 Court, Central District of California, Case No. CV 850485-R,
18 seeking damages for the years of fair game acts.

19 23. Flynn would ultimately settle all of the cases in each
20 of the foregoing three blocks when given a large sum of money by
21 Scientology to make such cases "go away."

22 24. In the first half of 1986 plaintiff's attorney Charles
23 O'Reilly tried the case of Larry Wollersheim v. Church of
24 Scientology of California, Los Angeles Superior Court Case No. C
25 332827. After a 95-day trial, the jury awarded a verdict in
26 Wollersheim's behalf in the amount of \$30,000,000.00.

27 25. At this time, Armstrong's cross-complaint, seeking
28 damages for Scientology's "fair game" conduct was set for trial at

1 the beginning of 1987. This conduct included assault, harassment,
2 attempted framing of Armstrong in an alleged plot to "take over"
3 Scientology, filing false criminal charges with the Los Angeles
4 District Attorney, filing false criminal charges with the Boston
5 office of the FBI, filing false declarations, bringing contempt of
6 court proceedings on three occasions based on false charges,
7 making false accusations in internationally published media of
8 crimes including crimes against humanity, and culling and
9 disseminating information from Armstrong's supposedly confidential
10 auditing (psychotherapy) files.

11 26. I am informed and believe and allege thereon that during
12 1986 organization leaders contacted Flynn, offered to discontinue
13 its fair game operations against him and offered him a lump sum of
14 money of several million dollars to settle all the Scientology
15 cases in which he had a role, including his own case, if he would
16 get all the litigants, which included Armstrong, Schomer and
17 Samuels, or claimants, which included Sullivan, Franks and
18 Walters, to sign organization-prepared settlement contracts. In
19 promising the payment of a lump sum to Flynn without specifying
20 what amount was to be applied in settlement of what claims
21 Scientology made Flynn its agent in opposition to the interests of
22 his clients.

23 27. Flynn had multiple conflicts of interest with his
24 Scientology litigation clients which he failed to disclose, and
25 otherwise failed to insure that said clients received proper
26 unconflicted representation. I am informed and believe and allege
27 thereon that he dealt with them separately and threatened that if
28 such persons refused to settle, he would abandon such persons as

1 their lawyer in addition to causing the unavailability of certain
2 critical witnesses. He represented, moreover, that the settlement
3 agreements were legally unenforceable.

4 28. The cases in which Flynn had a role settled in three
5 main blocks. The first block to settle was the Boston cases, the
6 second block was the Florida cases, and third was the Los Angeles
7 cases which settled in December, 1986 in Los Angeles and included
8 among approximately 15 plaintiffs or claimants Armstrong,
9 Sullivan, Franks, Schomer, Walters and Samuels.

10 29. Sullivan had been a long-time Sea Organization member,
11 Hubbard's personal public relations officer for many years, and
12 had played a key part in the corporate restructuring of the
13 organization in order to insulate top management from civil and
14 criminal liability. She testified in the Armstrong I trial, the
15 Wollersheim trial, and the 1985 trial of Julie Christofferson v.
16 Scientology, Circuit Court of the State of Oregon, Multnomah
17 County, No. A7704-05184, in which the jury had awarded a verdict
18 in Christofferson's behalf in the amount of \$39,000,000.00.

19 30. Franks had been a long-time Sea Organization member, the
20 organization's Executive Director International, and had knowledge
21 of organization covert intelligence operations and finances. He
22 had testified in the Christofferson and Wollersheim trials.

23 31. Schomer had been a long-time Sea Organization member, in
24 charge of Hubbard's finances and responsible for transferring
25 Scientology charitable corporation funds to Hubbard's personal
26 accounts. He had testified in the Armstrong I and Christofferson
27 trials.

28 32. Walters had been a long-time Scientology auditor

1 (therapist) and a covert operative for the organization's Guardian
2 Office, the name used until 1982 for its intelligence, legal and
3 public relations bureaus when it became the Office of Special
4 Affairs. Walters had testified in the Armstrong I, Christofferson
5 and Wollersheim trials.

6 33. Samuels had been a long-time Scientology franchise
7 holder and had knowledge of the organization's practice of
8 training its litigation witnesses to lie. He testified in the
9 Christofferson trial.

10 34. Armstrong had testified in the Armstrong I and
11 Christofferson trials and in a Scientology-related custody case in
12 London, England, and in another approximately twenty-five days in
13 depositions in some twelve lawsuits.

14 35. I am informed and believe that each settlement contract
15 contained provisions which called for complete silence regarding
16 Scientology-related experiences, non-assistance to adverse
17 parties, non-disclosure of settlement conditions, prohibition of
18 sworn testimony and avoidance of service of process. Armstrong's
19 settlement contract also contained provisions allowing the
20 organization to appeal from the scathing language of the
21 Breckenridge decision in Armstrong I and preventing Armstrong from
22 opposing any appeals the organization might take. With respect to
23 Scientology's appeal of the Breckenridge decision, Scientology and
24 Flynn entered into two side agreements, undisclosed to Armstrong,
25 which (1) limited any damages awarded on retrial to \$25,000, and
26 (2) guaranteed that Armstrong Scientology would indemnify
27 Armstrong's obligation to pay such judgement, should Scientology
28 obtain reversal of the appeal and prevail upon retrial of the

1 case. The settlement contract also required Armstrong to collude
2 with Scientology with respect to obtaining certain documents that
3 constituted evidence of a conspiracy among Scientology executives
4 and their attorneys to cover up criminal activity and to commit
5 frauds on the Internal Revenue Service and other governmental
6 agencies litigated and reported in United States v. Zolin, Case
7 No. CV 85-0440-HLH(Tx).

8 36. Armstrong contends that the foregoing provisions are
9 designed and intended to suppress evidence and therefore
10 constitute an obstruction of justice thereby rendering the
11 settlement contract unenforceable and void as against public
12 policy.

13 37. Flynn and the other attorneys representing Armstrong and
14 other anti-organization litigants also signed contracts with
15 Scientology which prohibited their representation of anyone
16 including their former anti-organization clients in litigation
17 against the organization.

18 38. Effects of the provisions of such settlement contracts
19 were the stripping of the Flynn-represented parties of their First
20 Amendment rights of Free Speech and the stripping of the public of
21 the right to hear from first-hand sources the truth about
22 Scientology so that there could be free competition in the
23 marketplace of ideas.

24 39. An additional effect of said provisions binding,
25 censoring, suppressing and restraining the Flynn-represented
26 parties' rights to Free Speech was to create an opportunity for
27 Scientology to disseminate manufactured falsehoods in the
28 marketplace of ideas, to obtain an unfair advantage with respect

1 to adversaries in various pending and future litigation, and to
2 control the availability of evidence harmful to it in future
3 litigation.

4 40. The purpose of each of the aforementioned settlement
5 contracts was to effectuate certain objectives, including but not
6 limited to, the following:

7 a. Maximizing Scientology's ongoing assertion and claim
8 that it is a bona fide religion;

9 b. Maximizing its opportunities to cover up its criminal
10 activity, or obtain a First Amendment immunity from having to be
11 accountable for the consequences of its conduct;

12 c. Slandering the reputation of Armstrong for truth and
13 veracity in order to make Scientology's false claims about its
14 nature and practices seem credible by putting Armstrong into a
15 posture where Scientology could lie about Armstrong with impunity
16 because if he spoke out about Scientology, it would sue him into
17 silence based upon the settlement contract.

18 41. Following the December, 1986 settlement, Scientology
19 continued to attack Armstrong pursuant to its "fair game
20 doctrine." Its acts include, but are not limited to, publishing a
21 false and unfavorable description of Armstrong's in a "dead agent"
22 pack relating to writer and anti-Scientology litigant Bent
23 Corydon; filing several affidavits in the case of Church of
24 Scientology of California v. Russell Miller and Penguin Books
25 Limited, case no. 6140 in the High Court of Justice in London
26 England which falsely accused Armstrong of violations of court
27 orders, and falsely labeled him "an admitted agent provocateur of
28 the U.S. Federal Government"; and delivering copies of an edited

1 version of an illegally obtained 1984 videotape of Armstrong to
2 the international media.

3 42. Scientology threatened Armstrong with lawsuits on six
4 occasions if he did not obey its orders to not testify regarding
5 Scientology's dark side, thus aiding and abetting its obstruction
6 of justice in the Miller case, in the case of Bent Corydon v.
7 Scientology, Los Angeles Superior Court No. C 694401, wherein
8 Corydon had subpoenaed Armstrong as a witness, and in the case of
9 Scientology v. Yanny, Los Angeles Superior Court No. C 690211.
10 Scientology also threatened to release Armstrong's confidences,
11 which it had stolen from a friend, if Armstrong did not assist the
12 organization in preventing Corydon from gaining access to the
13 Armstrong I court file.

14 43. In the fall of 1989, right after receiving a series of
15 threats from organization attorney Lawrence Heller, Armstrong, who
16 had not earlier responded to Scientology's post-settlement
17 attacks, concluded that he was being used to obstruct justice and
18 that he had a right and a duty to not obstruct justice.

19 44. In February, 1990 Armstrong petitioned the California
20 Court of Appeal, Second District, Division Three, for permission
21 to file a response in the appeal from the Breckenridge decision
22 that Scientology had been able to maintain in the intervening
23 years. The Court of Appeal granted Armstrong's petition and he
24 filed a respondent's brief. On July 29, 1991 the Court of Appeal
25 issued its opinion, Scientology v. Armstrong, (1991) 232 Cal.App.
26 3d 1060, 283 Cal.Rptr. 917, affirming the Breckenridge decision.

27 45. On October 3, 1991 Scientology filed a motion in
28 Armstrong I to enforce the settlement contract against Armstrong,

1 claiming that the contract had been approved by Judge
2 Breckenridge. On December 23, 1991 Judge Bruce R. Geernaert
3 denied the motion, ruling that Judge Breckenridge had not been
4 shown the contract. He also said:

5 "[T]hat is ... one of the most ambiguous, one-sided
6 agreements I have ever read. And I would not have
7 ordered the enforcement of hardly any of the terms had I
8 been asked to, even on the threat that, okay, the case
9 is not settled. I know we like to settle cases. But we
10 don't like to settle cases and, in effect, prostrate the
11 court system into making an order which is not fair or
12 in the public interest."

13 46. Scientology's actual purpose in bringing said motion was
14 to obstruct justice, suppress evidence, slander Armstrong;'s
15 reputation, retaliate against him for exercising his rights, and
16 to make an example of him so that knowledgeable witnesses who had
17 been betrayed in the settlement with the organization would
18 continue to be scared into silence.

19 47. On February 4, 1992 Scientology filed a lawsuit
20 captioned Church of Scientology v. Gerald Armstrong, Marin
21 Superior Court Case No. 152229 ("Armstrong II") claiming it was
22 seeking liquidated damages for alleged contract breaches and
23 asking for injunctive relief. The case was transferred to Los
24 Angeles Superior Court and given Case No. BC 052395. On May 27,
25 1992 at a hearing on Scientology's motion for a preliminary
26 injunction Judge Ronald M. Sohigian, who refused to enforce
27 certain of the settlement contract's provisions regarding
28 restraints on Armstrong's rights to Freedom of Speech, stated:

1 "The information (Armstrong's experiences inside the
2 Scientology organization) that's being suppressed in
3 this case, however, is information about extremely
4 blame-worthy behavior of [the Scientology organization]
5 which nobody owns; it is information having to do with
6 the behavior of a high degree of offensiveness and
7 behavior which is meritorious in the extreme.

8 It involves abusing people who are weak. It involves
9 taking advantage of people who for one reason or another
10 get themselves enmeshed in this extremist view in a way
11 that makes them unable to resist it apparently. It
12 involves using techniques of coercion."

13 Judge Sohigian did, however, prohibit Armstrong from voluntarily
14 giving sworn testimony on behalf of private individual plaintiffs
15 with contemplated or pending claims against Scientology or
16 assisting such persons with his special knowledge of Scientology.
17 Armstrong II is presently stayed pending the outcome of an appeal
18 from the Sohigian ruling.

19 48. On July 8, 1993, after Armstrong II was stayed
20 Scientology filed a lawsuit captioned Church of Scientology
21 International v. Gerald Armstrong & The Gerald Armstrong
22 Corporation, Los Angeles Superior Court Case No. BC 084642
23 ("Armstrong III") claiming again that it was seeking liquidated
24 damages for alleged contract breaches and asking for injunctive
25 relief. Armstrong III has also been stayed pending the outcome of
26 the appeal from the Sohigian ruling.

27 49. On July 23, 1993, Scientology filed a lawsuit captioned
28 Church of Scientology International v. Gerald Armstrong, Michael

1 Walton & The Gerald Armstrong Corporation, Marin Superior Court
2 Case No. 157680 ("Armstrong IV") claiming to be a creditor of
3 Armstrong and alleging a conspiracy to defraud it of liquidated
4 damages it claimed were owed by Armstrong.

5 50. Scientology's actual purpose in filing and prosecuting
6 Armstrong II, III and IV was to obstruct justice, suppress
7 evidence, assassinate Armstrong's reputation, retaliate against
8 him for exercising his rights, use the discovery process for
9 gathering intelligence on its enemies, and to make an example of
10 Armstrong so that knowledgeable witnesses who had been betrayed in
11 the settlement with the organization would continue to be scared
12 into silence.

13 51. Armstrong IV is a part of Scientology's use of
14 litigation as war against its targeted "enemies" and our justice
15 system itself. Scientology's tactics in its use of litigation as
16 war include causing its opposition to do needless work, needlessly
17 driving up costs to its opposition, ignoring the truth, senseless
18 relitigation of already decided issues, perjury, destruction and
19 hiding of evidence, intimidation of witnesses, intimidation of
20 opposing counsel, and intimidation of judges.

21 52. Indeed, United States District Court Judge James M.
22 Ideman wrote in a declaration he executed June 17, 1993 and filed
23 in the United States Court of Appeals:

24 "[Scientology] has recently begun to harass my former
25 law clerk who assisted me on this case, even though she
26 now lives in another city and has other legal
27 employment. This action, in combination with other
28 misconduct by counsel over the years has caused me to

1 reassess my state of mind with respect to the propriety
2 of my continuing to preside over the matter. I have
3 concluded that I should not.

4 [Scientology's] non-compliance (with Court orders) has
5 consisted of evasions, misrepresentations, broken
6 promises and lies, but ultimately with refusal. As part
7 of this scheme to not comply [Scientology has]
8 undertaken a massive campaign of filing every
9 conceivable motion (and some unconceivable) (Judge
10 Ideman's parens.) to disguise the true issues in these
11 pretrial proceedings. Apparently viewing litigation as
12 war, plaintiffs by this tactic have had the effect of
13 massively increasing costs to the other parties, and,
14 for a while, to the Court.

15 Yet it is almost all puffery -- motions without merit or
16 substance."

17 53. The Armstrong IV complaint, and all of Scientology's
18 papers filed in the case, constitute an abuse of process because
19 it is intended to support Scientology's strategy of retributive
20 litigation in furtherance of its plan and scheme to obstruct
21 justice and to suppress evidence by making an example of Armstrong
22 in order to intimidate other persons who are knowledgeable about
23 Scientology from coming forward and speaking the truth.
24 Scientology's filing and litigation of Armstrong IV is in
25 conformity with its express policy specifying the improper use of
26 litigation. Said policy, in part, is stated as follows:

27 "The purpose of the suit is to harass and discourage
28 rather than to win. [¶] The law can be used very

1 easily to harass, and enough harassment on somebody who
2 is simply on the thin edge anyway...will generally be
3 sufficient to cause his professional decease. If
4 possible, of course, ruin him utterly. "

5 FIRST CAUSE OF ACTION

6 (For Abuse of Process Against All Cross-Defendants)

7 54. Cross-complainant Armstrong realleges paragraphs 1
8 through 53, inclusive and incorporates them by reference herein as
9 though fully set forth.

10 55. Cross-defendants, and each of them, have abused the
11 process of this court in a wrongful manner, not proper in the
12 regular conduct of proceedings, to accomplish purposes for which
13 said proceedings were not designed, specifically obstruction of
14 justice, suppression of evidence, assassination of Armstrong's
15 reputation, retaliation against him for exercising his rights,
16 gathering intelligence on its enemies, and making an example of
17 Armstrong so that knowledgeable witnesses who had been betrayed in
18 the settlement with the organization would continue to be scared
19 into silence.

20 56. Cross-defendants, and each of them, acted in this
21 litigation with an ulterior motive to obstruct justice, suppress
22 evidence, assassinate Armstrong's reputation, retaliate against
23 him for exercising his rights, use the discovery process for
24 gathering intelligence on its enemies, and to make an example of
25 Armstrong so that knowledgeable witnesses who had been betrayed in
26 the settlement with the organization would continue to be scared
27 into silence.

28 57. Defendants, and each of them, have abused the process of

1 this court in a wrongful manner, not proper in the regular conduct
2 of the proceedings in Armstrong IV and in other litigation, to
3 accomplish a purpose for which said proceedings were not designed,
4 specifically, the suppression of evidence, the obstruction of
5 justice, the assassination of cross-complainant's reputation, and
6 retaliation against said cross-complainant for prevailing at trial
7 in Armstrong I, and for continuing to publicly speak out on the
8 subject of Scientology, all so as to be able to attack cross-
9 complainant and prevent cross-complainant from being able to take
10 any effective action to protect himself.

11 58. Defendants, and each of them, acted with an ulterior
12 motive to suppress evidence, obstruct justice, assassinate cross-
13 complainant's reputation, suppress ARMSTRONG's First Amendment
14 rights, and to retaliate against cross-complainant in said
15 litigation.

16 59. That defendants, and each of them, have committed
17 willful acts of intimidation, threats, and submission of false and
18 confidential documents not authorized by the process of
19 litigation, and not proper in the regular conduct of litigation.

20 60. On February 19, 1992, shortly after Scientology filed
21 Armstrong II, Armstrong's attorney therein, Ford Greene, wrote to
22 Scientology's attorney, Laurie Bartilson, requesting that, for the
23 purpose of Armstrong's defense, Scientology release Armstrong's
24 former attorneys, Michael Flynn, Bruce Bunch and Julia Dragojevic,
25 from contracts by which Scientology prohibited them, on threat of
26 fair game, from assisting Armstrong against Scientology's charges.
27 The assistance of said attorneys was necessary because each had
28 represented Armstrong throughout the Armstrong I litigation and

1 had participated as Armstrong's agents in the 1986 settlement
2 negotiations with Scientology which resulted in the subject
3 settlement agreement Scientology sought to enforce in Armstrong
4 II.

5 61. On February 24, 1992, Greene wrote to Bartilson,
6 requesting that, for the purpose of Armstrong's defense,
7 Scientology release the individuals, including Sullivan, Franks,
8 Schomer, Walters and Samuels, who had signed Scientology's
9 "settlement agreements" around the same time as Armstrong, from
10 said agreements which prohibited them, on threat of fair game,
11 from assisting Armstrong against Scientology's charges. The
12 assistance of said individuals, all of whom had been represented
13 by Flynn, was necessary because Scientology claimed in Armstrong
14 II that they had each signed and agreed to settlement agreements
15 substantially similar to Armstrong's; yet each had been advised by
16 Flynn that the prohibitory clauses in said settlement agreements
17 were unenforceable. Each witness would support Armstrong's
18 defense that Scientology had obtained their signatures on said
19 unenforceable contracts by subjecting them and their attorney to
20 fair game. Releases were necessary as well because Armstrong did
21 not have and does have any money to pay for service of deposition,
22 subpoenas, deposition transcripts and related travel costs for
23 these witnesses, himself or his attorney.

24 62. On March 2, 1992 Bartilson wrote to Greene refusing to
25 release either Armstrong's former attorneys or any of the
26 "settling" individuals, including Sullivan, Franks, Schomer,
27 Walters and Samuels, from the contracts by which Scientology
28 prevented them from assisting Armstrong.

1 63. On March 25, 1994 Judge Gary W. Thomas issued an order
2 in Armstrong IV sustaining plaintiff's demurrer stating, inter
3 alia, "As to the first cause of action for declaratory relief,
4 cross complainant seeks a declaration of issues which will be
5 determined in the Los Angeles Superior Court actions
6 (enforceability of settlement contract) or in the underlying
7 complaint (ability of plaintiff to recover under the Uniform
8 Fraudulent Conveyance Act)."

9 64. On March 30, 1994 Greene wrote to Bartilson requesting
10 that, for the purpose of Armstrong's defense in Armstrong IV,
11 Scientology release Armstrong's former attorneys, Michael Flynn,
12 Bruce Bunch and Julia Dragojevic, and the settling individuals,
13 including Sullivan, Franks, Schomer, Walters and Samuels, from
14 said contracts by which Scientology prohibited them, on threat of
15 fair game, from assisting Armstrong against Scientology's charges
16 in Armstrong IV. The assistance of said attorneys and individuals
17 was necessary for the reasons set forth above in paragraphs 60 and
18 61.

19 65. On April 4, 1994 Bartilson wrote to Greene refusing to
20 release either Armstrong's former attorneys or any of the
21 "settling" individuals, including Sullivan, Franks, Schomer,
22 Walters and Samuels, from the contracts by which Scientology
23 prevented them from assisting Armstrong in the Armstrong IV
24 litigation.

25 66. Without Scientology's specific release of witnesses with
26 knowledge of the facts surrounding the settlement agreement on
27 which Scientology bases Armstrong IV even subpoenaing said
28 witnesses for deposition will not free them from Scientology's

1 fair game threat to provide honest testimony. Indeed Howard
2 Schomer was so intimidated by Scientology's threats of litigation
3 should he testify even pursuant to a subpoena that when he was
4 subpoenaed to a deposition in the Corydon case in 1990 he allowed
5 one of Scientology's own lawyers to represent him and altered his
6 previous sworn testimony to suit Scientology.

7 67. Scientology's refusal to release of said attorneys and
8 individuals, on whom Armstrong depends for his defense of
9 Scientology's claims in the underlying complaint in Armstrong IV,
10 to be able to freely testify by means of declaration or
11 deposition, when coupled with Scientology's continual threat of
12 fair game should any these knowledgeable attorneys or individuals
13 testify, is a willful act in the use of the legal process not
14 proper in the regular conduct of this or any proceeding in our
15 justice system. Its purpose is obstruction of justice and
16 destruction of evidence so as to gain an illicit advantage in the
17 Armstrong IV litigation, as well as to needlessly to run up
18 Armstrong's costs so as to crush him economically.

19 68. On August 3, 1993, shortly after filing the underlying
20 Armstrong IV complaint, Scientology recorded a lis pendens on the
21 real property situated in Marin County known as 707 Fawn Drive and
22 owned by Michael and Solina Walton. Scientology was not entitled
23 by law to record said lis pendens. Moreover, the value of the
24 property encumbered by said lis pendens far exceeded the amount of
25 Scientology's legitimate claim, which is zero. The Waltons made
26 several requests of Scientology that it remove the improper lis
27 pendens, and Scientology refused, forcing the Waltons to bring a
28 motion for an order of expungement. The forcing of the Waltons to

1 bring a motion to achieve the expungement of the lis pendens to
2 which Scientology was not entitled was a willful act improper in
3 the regular conduct of the Armstrong IV proceeding, for the
4 purposes of threatening Armstrong's friends, the Waltons, causing
5 them problems and pushing up their costs in the litigation
6 unnecessarily, so as to drive a wedge between the Waltons and
7 Armstrong, to isolate Armstrong and to retaliate against him for
8 exercising his rights by attacking his friends. Cost to the
9 Waltons to obtain the expungement of said improper lis pendens is
10 over \$8000.00. On October 29, 1993 the Court ordered said lis
11 pendens expunged and ordered Scientology to pay \$3514.00 of the
12 Waltons' costs by December 1, 1993, which orders Scientology did
13 not appeal. As of this date Scientology has not paid this amount
14 to the Waltons and continues to refuse to pay. Such refusal is a
15 willful act for the illicit purposes of intimidation, causing the
16 Waltons and Armstrong more trouble and pushing up the costs of
17 this litigation even more.

18 69. On February 8, 1994, Scientology leader and cross-
19 defendant herein David Miscavige executed a declaration which
20 concerned Armstrong and which was filed in the case of Scientology
21 v. Fishman & Geertz, United States District Court for the Central
22 District of California Case No. CV 91-6425 HLH(Tx). In said
23 declaration Miscavige falsely accused Armstrong of various acts
24 relating to his experiences with Scientology prior to the 1986
25 settlement. On February 22 Armstrong executed a declaration for
26 filing in the Fishman case to correct the falsehoods in
27 Miscavige's declaration concerning his Scientology-related
28 experiences. Prior to responding to the Miscavige declaration

1 Armstrong had executed no declaration for use in the Fishman case.
2 On April 5, 1994, Scientology amended its complaint in Armstrong
3 II to add a claim for \$50,000.00 in liquidated damages for
4 Armstrong's execution of February 22 declaration. Miscavige and
5 Scientology filed the false declaration about Armstrong in Fishman
6 to goad and lure him into responding to correct the record and
7 then use his response to puff up the liquidated damages on which
8 Scientology bases its claim of damages in Armstrong IV so as to be
9 able to use that litigation as a vehicle to accomplish its actual
10 purposes of obstruction of justice, suppression of evidence,
11 assassination of Armstrong's reputation, retaliation against him
12 for exercising his rights, use of the discovery process for
13 gathering intelligence on its enemies, and making an example of
14 Armstrong so that knowledgeable witnesses who had been betrayed in
15 the settlement with the organization would continue to be scared
16 into silence. All other liquidated damages claims on which
17 Scientology bases Armstrong IV are similarly baseless and the
18 result of Scientology's and Miscavige's own wrongful acts.

19 70. I am informed and believe and allege thereon that on or
20 about March 30, 1994 Scientology, pursuant to L. Ron Hubbard's
21 policies of fair game and "black propaganda," disseminated
22 internationally a publication which defames Armstrong by falsely
23 accusing him of crimes and perversions, impugns his character with
24 falsehoods and innuendo, and purports to describe his pre-
25 settlement experiences with the Scientology organization. I am
26 informed and believe and allege thereon that the actual source of
27 said publication is David Miscavige. One of the purposes of said
28 publication is to goad or lure Armstrong into responding to clear

1 his name of Miscavige's and Scientology's lies. Scientology will
2 then claim it is due liquidated damages in order to pad the claims
3 on which it bases Armstrong IV. If Armstrong does not respond in
4 order to refute Miscavige's and Scientology's lies and clear his
5 name Miscavige and Scientology will claim that Armstrong, who
6 himself received a copy of said publication in Scientology's
7 international mailing, admits the truthfulness of said lies. The
8 actual purposes of Scientology's willful act in disseminating said
9 publication during the litigation of Armstrong IV are the
10 assassination of Armstrong's reputation, retaliation against him
11 for exercising his rights, and making an example of Armstrong so
12 that knowledgeable witnesses who had been betrayed in the
13 settlement with the organization would continue to be scared into
14 silence. Said publication is a vehicle Scientology is using to
15 improperly inject into the Armstrong IV litigation false
16 statements about Armstrong which have no connection to or logical
17 relation to the action and are not made to achieve the objects of
18 that litigation. Said publication contains, moreover, a
19 description of a document which was illegally obtained by
20 Scientology, and which was specifically sealed by Judge
21 Breckenridge in the Armstrong I litigation. Scientology's use of
22 said document in violation of an order of the Los Angeles Superior
23 Court to effectuate its injection into the Armstrong IV litigation
24 for the purpose of assassinating Armstrong's reputation is a
25 willful act improper in the regular conduct of this or any other
26 proceeding.

27 71. Throughout the Armstrong IV litigation Scientology has
28 made knowingly false and defamatory statements about Armstrong for

1 the purpose of assassinating his reputation, rather than to
2 achieve the legitimate objects, if any, of the litigation. These
3 include the lies that Armstrong has or had a history of fomenting
4 litigation against Scientology, that for years he displayed an
5 intense and abiding hatred for Scientology, and that he had
6 extorted money from Scientology as the price of his signature on
7 the subject settlement agreement. None of these statements is
8 true and none are reasonably related to the objects of the
9 Armstrong IV litigation, namely the setting aside of what
10 Scientology alleges are fraudulent transfers by Armstrong.

11 72. While litigating Armstrong IV, which Scientology bases
12 on Armstrong's alleged breaches of the 1986 settlement agreement,
13 Scientology has itself refused to be bound by the same agreement.
14 Scientology's refusal includes its unilateral rejection of the
15 prevailing party fees and costs provision in paragraph 20 of the
16 agreement. Since December, 1991 Scientology has owed Armstrong
17 over \$20,000.00 in fees and costs from his successful defense of
18 Scientology's motion to enforce the settlement agreement in
19 Armstrong I. Scientology continues to refuse to pay said fees and
20 costs due and continues to reject its own prevailing party fees
21 and costs settlement agreement provision, while prosecuting the
22 baseless and costly Armstrong IV litigation. Said refusal to be
23 bound by its own contract is an improper willful act for the
24 purposes of intimidation, destroying Armstrong financially,
25 retaliation against him for exercising his rights, and making an
26 example of him so that knowledgeable witnesses who had been
27 betrayed in the settlement with the organization would continue to
28 be scared into silence.

1 73. Scientology bases all of its allegations relating to
2 fraudulent conveyances in Armstrong IV solely on the deposition
3 testimony of Armstrong and Walton in the Armstrong II litigation.
4 Yet there is not one word in that testimony to support
5 Scientology's allegations. Armstrong and Walton, on the other
6 hand, have provided from the beginning of the Armstrong IV
7 litigation overwhelming, detailed documentary proof of the non-
8 fraudulent nature of all of Armstrong's conveyances Scientology
9 claims it seeks in this action to set aside. In order to continue
10 to prosecute Armstrong IV Scientology refuses to acknowledge this
11 overwhelming proof. By refusing to acknowledge this proof and
12 maintaining the charade of legitimacy in its allegations
13 Scientology has through the discovery process in Armstrong IV
14 obtained Armstrong's and Walton's personal and detailed financial
15 records. The purposes for Scientology's use of the discovery
16 process to obtain such records in this case are to feed its
17 intelligence gathering apparatus, intimidation and retaliation.
18 Faced as Scientology is with the fact that all of Armstrong's
19 conveyances were non-fraudulent all of its acts in continuing to
20 prosecute Armstrong IV constitute an ongoing abuse of process.

21 74. Throughout the Armstrong IV litigation Armstrong and
22 Walton have made several attempts to get Scientology to meet and
23 communicate for the purpose of resolving the action without
24 further litigation and greater cost, and each attempt Scientology
25 has refused to acknowledge. Armstrong and Walton have, moreover,
26 made several requests that Scientology dismiss the litigation, and
27 Scientology has refused each request. Having no basis in reality
28 for the Armstrong IV complaint Scientology prosecutes this case

1 for improper purposes, and its acts in refusing to meet and
2 communicate and refusing to dismiss the case constitute an abuse
3 of process. Scientology's purpose in its refusals to resolve its
4 meritless Armstrong IV case is to be able to maintain it as a
5 vehicle for its actual and illicit motives: obstruct justice,
6 destroy evidence, gain an unfair advantage in all of its
7 litigations, feed its intelligence appetite, crush Armstrong
8 economically, destroy him emotionally, assassinate his reputation,
9 retaliate against him for daring to live his own life and stand up
10 to Scientology's suppression, make an example of him as a message
11 to anyone else who might dare to stand up to its suppression, and
12 intimidate the legal community.

13

14

15 75. Cross-complainant has suffered damage, loss and harm,
16 including but not limited to his reputation, his emotional
17 tranquillity, and privacy.

18 76. That said damage, loss and harm was the proximate and
19 legal result of the use of such legal process.

20

PRAYER

21 **WHEREFORE**, cross-complainant seeks relief as is hereinafter
22 pleaded.

23

ON THE FIRST CAUSE OF ACTION

- 24 1. For general and compensatory damages according to proof.
25 2. For attorney's fees and costs of suit.
26 3. For such other and further relief as the Court may deem
27 just and proper.

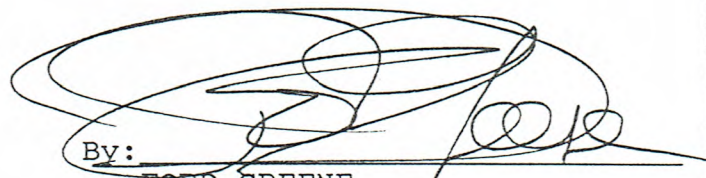
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Respectfully submitted,

DATED: April 15, 1994

HUB LAW OFFICES




By: _____
FORD GREENE
Attorney for Defendant

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VERIFICATION

I, the undersigned, am the cross-complainant in the above entitled action. I know the contents of the foregoing First Amended Cross-Complaint I certify that the same is true of my own knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct according to the laws of the State of California and that this declaration was executed on the April ^{20th} ~~15~~, 1994 at San Anselmo, California.

By: 
GERALD ARMSTRONG

PROOF OF SERVICE

I am employed in the County of Marin, State of California. I am over the age of eighteen years and am not a party to the above entitled action. My business address is 711 Sir Francis Drake Boulevard, San Anselmo, California. I served the following documents: ~~FIRST~~ ^{SECOND} VERIFIED AMENDED CROSS-COMPLAINT FOR ABUSE OF PROCESS

on the following person(s) on the date set forth below, by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California:

Andrew Wilson, Esquire
WILSON, RYAN & CAMPILONGO
235 Montgomery Street, Suite 450
San Francisco, California 94104

LAURIE J. BARTILSON, ESQ.
Bowles & Moxon
6255 Sunset Boulevard
Suite 2000
Los Angeles, California 90028

MICHAEL WALTON
P.O. Box 751
San Anselmo, California 94960

(By Mail) I caused such envelope with postage thereon fully prepaid to be placed in the United States Mail at San Anselmo, California.

(State) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

DATED: April ²⁰~~15~~, 1994